

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, January 14, 2009

10:00 AM

Sacramento, California,

West Covina, California
&
San Diego, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: January 2, 2009

RE: Closed Session of the Board on January 14, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. RED GROUP DBA TOP LIMO, 08-R4D2-2520 THROUGH 2522
2. SL RESIDENTIAL, INC., 07-R3D5-3684
3. URBACH ROOFING, INC., 08-R3D2-2074 AND 2075

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. 1161 TETSUO COMMERCIAL PROPERTY LLC, 08-R1D1-0867 THROUGH 0873
2. ABM INDUSTRIES, INC. DBA ABM ENGINEERING SERVICES, 07-R1D2-0717 THROUGH 0719
3. AD INDUSTRY, INC., 08-R6D2-3809 AND 08-R6D2-4275
4. ALARCON BOHM CORP., 08-R1D3-0530 AND 0531
5. ALLIANCE STAFFING, 06-R2D1-2691
6. AMERICAN LITHOGRAPHERS, INC., 08-R1D4-962 AND 963
7. ANGELUS BLOCK CO., INC., 07-R4D1-2429 THROUGH 2431
8. ANHEUSER BUSCH, INC., 08-R4D3-1528
9. ARANDA'S TORTILLA COMPANY, INC., 07-R6D1-5116 THROUGH 5119
10. ARCHITECTURAL GLASS & ALUMINUM CO., 07-R1D4-2168
11. ASSOCIATED TAGLINE, INC., 07-R1D2-4587 THROUGH 4593
12. BRUNSWICK ZONE, 08-R3D3-3441
13. BUTTE COUNTY RICE GROWERS ASSOCIATION, 07-R2D3-1616 THROUGH 1618
14. CA DEPT. OF TRANSPORTATION, 06-R1D2-4403 AND 4404
15. CA FORESTRY & FIRE PROTECTION – SANTA CLARA UNIT, 08-R1D2-4028
16. CALIFORNIA DEPARTMENT OF JUSTICE, 08-R1D1-0888
17. CALIFORNIA WATERSCAPES, 08-R1D2-1197
18. CALSTONE, 07-R1D2-1343 THROUGH 1345

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19. CANNON EQUIPMENT, 08-R3D1-4544 AND 4545
20. CAPITOL STEEL CONSTRUCTORS, INC., 07-R2D1-945 THROUGH 948
21. DAVID CHIDDIX DBA DAVID CHIDDIX CONSTRUCTION, 08-R1D5-1066 AND 1067
22. CHOCOLATES A LA CARTE, 08-R6D2-1662 THROUGH 1665
23. CLAYTON WARD, INC., 07-R2D3-1148 and 1149 AND 07-R2D3-1984
24. COASTAL CONSTRUCTION & LUMBER COMPANY, 07-R1D2-0715
25. COCA COLA BOTTLING COMPANY OF SOUTHERN CALIFORNIA, 08-R6D2-2814
26. COLORADO STRUCTURES, INC. DBA CSI CONSTRUCTION, 07-R2D1-842 THROUGH 844
27. COMMUNICATION & POWER INDUSTRIES, 08-R1D2-0959 AND 0960
28. CON-AGRA FOODS, 07-R1D2-1249 AND 1250
29. DANIEL STEEL & MACHINE, INC., 07-R1D5-3863
30. DE CRISTO CONCRETE, 08-R6D2-0246 AND 0247
31. DESIGN DEVELOPMENT, 08-R2D4-0159 AND 0160
32. DRI COMMERCIAL CORPORATION, 07-R1D5-4817
33. EL CAMINO HOSPITAL, 08-R1D2-1062 AND 1063
34. EL DORADO MEXICAN FOOD PRODUCTS, 08-R6D2-0851 AND 0852 & 08-R6D2-4025
35. FOSTER POULTRY FARMS, INC., 07-R2D4-4358 AND 4359
36. FREGOSI CONSTRUCTION, 07-R1D2-1603 THROUGH 1606
37. FRESH EXPRESS INCORPORATED, 08-R6D3-3870
38. F T R ASSOCIATES, INC., 08-R6D2-4053 THROUGH 4056

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39. GOLDEN BAY HARDWOOD FLOOR AND ROOFING CO., 07-R2D4-5325 AND 5326
40. PAUL GRAHAM DRILLING, 08-R6D3-1182
41. GRANITE CONSTRUCTION COMPANY, 08-R5D2-1430
42. GRANITE ROCK CO., 07-R1D2-1002 AND 1003
43. HANSON PERMANENTE CEMENT, INC., 08-R5D1-0222
44. HOME FRONT, 08-R4D1-3722
45. INFINITY STAFFING SERVICES, INC., 08-R1D2-0785 THROUGH 0789
46. INTERSTATE BRANDS CORPORATION, 08-R4D1-1994 THROUGH 1998
47. JASMINA, INC., 07-R6D2-5081 THROUGH 5084
48. JNR CONFECTION SPEC. CORP. DBA: FUNWAY SNACK FOODS, 08-R6D2-3233 THROUGH 3236
49. KAISER PERMANENTE MEDICAL GROUP, 07-R1D4-4617
50. KEMATEN COSMETICS USA, INC., 08-R2D3-2851 THROUGH 2853
51. KENWALT DIE CASTING, INC., 08-R4D3-1367 AND 1368
52. KOFFLER ELECTRICAL MECHANICAL APPARATUS REPAIR, INC., 08-R1D1-0784
53. LA CANADA USD, 08-R4D2-2806
54. LAVEYCRAFT PERFORMANCE BOATS, INC., 08-R6D2-1178 AND 1179
55. LAVEYCRAFT PERFORMANCE BOATS, INC., 08-R6D2-1270 THROUGH 1272
56. LESTER BOX, INC., 08-R6D2-2841 THROUGH 2845
57. LION RAISIN, 07-R2D5-2587
58. ARMANDO M. LOPEZ FLC, 08-R2D4-0156 THROUGH 0158
59. LUU'S BROS. CORP., 07-R2D1-5156 AND 5157

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60. MA COLLISION CENTER, 08-R6D5-2747
61. MADERA COOPERATIVE GIN, INC., 08-R2D5-1856 AND 1857
62. MAINLAND NURSERY, INC., 07-R2D4-4356 AND 4357
63. MALCOLM DRILLING CO., 07-R2D2-0640
64. MARK A. MATNEY ENTERPRISES, INC., 08-R2D1-2704 AND 2705
65. T F MEADOR CONSTRUCTION, 08-R3D1-4580
66. METAL PRODUCTS ENGINEERING CO., 08-R6D2-4656 THROUGH 4659
67. G. L. MEZZETTA, INC., 07-R1D5-1353 THROUGH 1356
68. MODERN METAL INSTALLATIONS, INC., 07-R1D4-5023
69. MONTEREY MECHANICAL CO., 06-R1D4-4329 THROUGH 4333
70. MUIR CHASE PLUMBING CO., 07-R4D1-4429
71. AMIR MUSAZADEH DBA AMIR FUSING, 08-R6D2-0853 AND 0854
72. NATIONAL BEEF PACKING CO., LLC, 08-R6D2-0936 THROUGH 0939
73. NCV VENDING SERVICES, 08-R6D2-3774 AND 3775
74. NORTH COUNTIES DEVELOPMENT CO., 07-R1D4-477 THROUGH 480
75. NU FOREST PRODUCTS, INC., 08-R1D5-3270
76. OBB, INC. DBA O'BRIEN BUILDERS, 08-R2D2-1137
77. OLD MILL FARM LLC, 07-R1D5-1008 AND 07-R1D5-3288
78. OLY FOODS, INC. DBA OLYMPIC FOODS, LLC., 08-R3D3-0178
79. OLYMPUS MEDICAL EQUIPMENT SERVICES AMERICA, INC., 08-R1D2-0796
AND 0797
80. ORCHARD SUPPLY HARDWARE, 07-R1D2-1340

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81. O'SULLIVAN CONSTRUCTION, 07-R1D3-0264 THROUGH 0266
82. PAIN INSTITUTE OF SANTA MONICA, 08-R4D1-2866 THROUGH 2867
83. PALLETS IN MOTION, 08-R6D5-1942
84. PARAMOUNT WINDOWS & DOOR, 07-R3D3-4403
85. PEBBLE BEACH COMPANY, 07-R1D2-1655 THROUGH 1668
86. PERSALL MASONRY, INC., 08-R3D3-1149 and 08-R3D3-1688 AND 1689
87. PINNACLE BUILDERS, INC., 07-R1D4-1507 AND 1508
88. PIPEJACKING UNLIMITED, 08-R5D2-1245
89. R & B EXCAVATING, INC., 08-R1D2-1196
90. RDR PRODUCTION BUILDERS, INC., 07-R2D1-4210
91. RALPH GROCERIES CO./FOOD 4 LESS, 08-R4D3-0850
92. RAMIREZ PALLETS, INC., 08-R6D2-4272 AND 4273 & 08-R6D2-1273 AND 1468
93. RICK'S NEWS, 07-R1D2-0004 THROUGH 0006
94. ROBINSON'S PHARMACY & MEDICAL SUPPLIES, INC., 08-R2D1-0277
95. THE JOHNNY ROCKETS GROUP, INC., DBA JOHNNY ROCKETS, 07-R1D1-2088 AND 2089
96. DAN ROE DBA ROE & COMPANY, 08-R1D5-1200
97. SACRAMENTO INSULATION CONTRACTORS DBA SACRAMENTO BUILDING PRODUCTS, 07-R2D5-4372
98. SACRAMENTO UROLOGY MEDICAL CORPORATION, 08-R2D1-0149 AND 0150
99. SANTA CLARA COUNTY OFFICE OF EDUCATION, ERIKSON SCHOOL, 08-R1D2-0791
100. SANTA CLARA POLICE DEPARTMENT, 08-R1D2-0889 AND 0890
101. SELECT HARDWOOD FLOORS, 08-R1D2-0790

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102. SEQUOIA CONSTRUCTION SPECIALTIES, 07-R2D3-4128
103. TIM SHANNON CONSTRUCTION, INC., 08-R2D2-0898 THROUGH 0901
104. SHINE FOODS, INC., DBA SWEETY NOVELTY, INC., 08-R6D2-0486 THROUGH 0492
105. JOSH SOLOVY., INC. DBA COMPLETELY FRESH FOODS, INC., 08-R6D2-2699 THROUGH 2701
106. SONOMA COUNTY WATER AGENCY, 07-R6D3-4972 AND 4973
107. SOUTHLAND ENVELOPE CO., INC., 08-R6D2-2991 THROUGH 2994
108. STATE ROOFING SYSTEMS, INC., 07-R1D4-1120
109. SUNLAND WOOD PRODUCTS, 08-R6D2-1257 THROUGH 1263
110. SYAR INDUSTRIES, INC., 07-R5D1-1816 AND 1817
111. TAURUS ROOF SERVICES, INC., DBA WATERPROOFING ASSOC., 07-R1D2-1244 THROUGH 1248
112. TECHNO COATINGS, 08-R4D1-1999 AND 2000
113. TRISTAFF GROUP, 08-R3D3-1607
114. TUBULAR SPECIALTIES MFG., INC., 07-R4D2-4908 THROUGH 4911
115. TWE ENTERPRISES, 07-R2D1-949 AND 950
116. UFO DESIGN, 08-R6D2-2289 THROUGH 2291
117. UNICO MECHANICAL CORPORATION., 08-R6D3-4148
118. U-SUN USA, INC., 08-R4D2-2622 THROUGH 2626
119. VALLEY COMMUNITY BANK, 08-R1D4-0801
120. VENUS FOODS, INC., 08-R6D2-2427 THROUGH 2429
121. VILA CONSTRUCTION, 08-R1D4-0874 AND 0875

122. VISIONS PAINTING, INC., 07-R2D1-4635 THROUGH 4638
123. WEBCOR BUILDERS, 08-R4D1-1886
124. WICKS HEATING AND A/C, INC., 05-R3D3-3623
125. WILLIAMSON PRODUCE, 08-R3D2-2680
126. WORKFORCE OUTSOURCING, INC., 07-R3D3-4095
127. YOU DON'T MESS WITH THE ZOHAN, 07-R4D1-2279 AND 2280

ORDERS DISMISSING APPEALS:

1. 1717 NORTH VERDUGO 127 LLC DBA – CEDAR SIGNATURE HOMES, 07-R4D2-4473
2. AMISH COUNTRY GAZEBOS, INC., 08-R6D2-0227 THROUGH 0231
3. STOKES CONSTRUCTION, INC. 06-R2D5-4600 THROUGH 4602

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. CINQUINI FARMS, 06-R2D3-9228
2. DISCOUNT VIDEO CENTER DBA SIN CITY ENTERTAINMENT, 07-R6D2-9505
3. DUKE PACIFIC, INC., 08-R3D3-574
4. KING SCAFFOLDING, INC., 08-R1D1-9359
5. LANCE CONSTRUCTION, 08-R4D3-1365 AND 1366
6. LINDSAY FOODS, 07-R2D5-4861
7. PRABHANDON SINGH MOHAR ORCHARD DBA MOHAR RANCH, 07-R2D3-2579
8. OLTMANS CONSTRUCTION CO., 08-R3D3-9435
9. SOUTHERN CALIFORNIA EDISON, 08-R3D3-9062

10. SOUTHERN CALIFORNIA OUTDOOR CONCEPTS, INC., 08-R6D5-9348

11. TRILAR MANAGEMENT GROUP, 08-R3D3-9040

DENIALS OF PETITIONS FOR RECONSIDERATION

1. FRANK M. BOOTH, INC., 06-R2D1-4703

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791

2. AC FRAMERS INC., 03-R2D3-3475

3. ASC PROFILES, INC., 06-R2D1-1181

4. ANNING-JOHNSON COMPANY, 06-R1D3-1976

5. BART, 03-R1D1-5170

6. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217

7. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429

8. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680

9. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155

10. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905

11. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96

12. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224

13. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351

14. COX COMMUNICATIONS, 03-R3D2-1942

15. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393

16. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114

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17. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
18. DO-ABLE PRODUCTS, 06-R6D2-2998 THROUGH 3007
19. DUKE PACIFIC, INC., 06-R3D3-5157 THROUGH 5177
20. DYNALECTRIC, 03-R1D1-4101
21. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. FORTUNA IRON WORKS 06-R2D3-4222
25. G.T. ALDERMAN, INC., 05-R4D3-3513
26. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
27. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
28. GLASS PAK, 03-R2D2-750 AND 751
29. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. THE HERRICK CORP., 07-R3D1-495
32. HUDD DISTRIBUTION SERVICE, INC., 07-R4D2-5367
33. HUSSMAN CORPORATION, 03-R3D1-2939
34. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
35. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
36. JENSEN PRECAST, 05-R2D1-2377
37. JOHN LAING HOMES, 04-R3D1-194 AND 195
38. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968

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39. KELLY SERVICES, INC., 06-R1D2-1024
40. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
41. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
42. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
43. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
44. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
45. O & M INDUSTRIES, 04-R1D5-1597
46. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
47. PHOENIX ONSTRUCTION SERVICES, 08-R4D2-9374
48. PMR RACE CARS, 03-R3D3-1825
49. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
50. RII PLASTERING INC., 02-R3D1-2679
51. R & L BROSAMER, INC., 03-R1D5-4832
52. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
53. STACY & WITBECK, INC., 05-R1D1-1142
54. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
55. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
56. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES,
04-R5D2-850 AND 851
57. TEICHERT AGGREGATES, 04-R5D1-2982
58. TRIO METAL, 03-R4D4-317
59. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557

- 60. UNITED PARCEL SERVICE, 07-R3D3-3322
- 61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 62. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
- 2. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
- 3. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
- 4. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
- 5. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
- 6. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
- 7. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
- 8. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
- 9. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
- 10. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
- 11. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
- 12. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
- 13. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.